

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO. 3838-01  
BILL NO. HB 1652  
SUBJECT: Business and Commerce; Tobacco Products; Children and Minors  
TYPE: Original  
DATE: February 1, 2000

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**FISCAL SUMMARY**

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<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue Fund	(\$529,764)	(\$428,425)	(\$447,088)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$529,764)</b>	<b>(\$428,425)</b>	<b>(\$447,088)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 6 pages.

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**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would impose new restrictions on the sale of tobacco products to minors and create new fines and penalties. Depending on the degree of enforcement, there could be an increase in the number of cases filed, but CTS would not expect a significant impact on the workload of the courts.

Officials from the **Office of State Public Defender (SPD)** assume an additional 1,000 indigent persons will require representation in cases where they have been charged for possession of fake or altered identification cards. SPD assumes it will require 2 FTE Assistant Public Defenders, .75 FTE Paralegal Investigator, .50 FTE Legal Secretary, and the related equipment and expense for each position, to represent the indigent accused.

Officials from the **Department of Public Safety - Division of Liquor Control (DPS)** assume the proposed legislation would result in revenues from registration fees which will be collected by the Department of Revenue. DPS further assumes it will require 1 FTE Tobacco Program Manager (\$48,120); 6 FTE Agents (\$34,992); 3 FTE Clerk IV (\$25,440); and the related equipment and expense for each position, to enforce and administer the tobacco provisions provided by this proposal.

Officials from the **Office of Attorney General** assume the costs of the proposed legislation could be absorbed with existing resources.

Officials from the **Department of Revenue (DOR)** assume the proposed legislation will tighten restrictions on sales of tobacco products to minors. It provides for a misdemeanor punishable by a \$1000 fine for having a false drivers or chauffeurs license. It requires DOR to place a block on the sales tax return for businesses to indicate that they sell tobacco products. DOR is to register all who sell tobacco products and charge them a \$25 annual registration fee. DOR is then to provide Liquor control and the Department of Mental Health on or before July 1 each year a list of all businesses selling tobacco products. If a business fails to register with DOR as a tobacco seller they can be guilty of a class A misdemeanor and subject to progressive fines and be banned from selling tobacco products.

DOR assumes an entirely new sub-system would need to be developed within the sales tax system. Contract programming would be required to accomplish development of this system. It is projected that it will require approximately 5 contract programmers 10 months the first year to develop this system and the same programmers an additional 5 months the second year to fully test and implement this system. This totals 8400 hours the first year and 4200 hours the second year [168 hrs. per month x 5 x 10 = 8400] and [168 hrs. per month x 5 x 5 = 4200].

ASSUMPTION (continued)

Contract programming costs average around \$110 per hour. In addition DOR estimates that 2 Tax Processing Technicians and 1 Clerk I would be required to determine who to register, process their payments, maintain the system of new registrants, delete those going out of business, pass monthly and annual information on these registrants to Liquor Control and Department of Mental Health, process correspondence and proper notifications to registrants, and properly bill and collect fines for violations. It is also projected that the data center will charge \$30,000 to test and implement a system of this magnitude.

**Oversight** assumes the changes to DOR's mainframe system to accommodate the provisions of this proposal will need to be complete by January 1, 2001. Therefore, five months of programming work (5 contract programmers x 168 hrs. per month x \$110 per hour = \$92,400) and \$30,000 in State Data Center charges have been included in the fiscal impact. Oversight has also allowed three FTE for the initial registrations in FY 2001 and two FTE for ongoing administration.

Through discussions with DPS personnel, **Oversight** determined there are approximately 12,000 outlets which sell tobacco products. DOR noted in its response that it is to register all who sell tobacco products and charge them a \$25 annual registration fee. Oversight assumes revenues totaling approximately \$300,000 annually will be deposited into the general revenue fund as a result of this proposal.

Officials from the **Office of Prosecution Services, Department of Health, and the Department of Mental Health** assume the proposed legislation would have no fiscal impact on their agencies.

**Oversight** notes that increases in fines which would go to school districts would be offset by reduced payment to those districts through the State Foundation Formula.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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**GENERAL REVENUE**

Costs - Office of State Public Defender

Salaries	(\$79,769)	(\$98,156)	(\$100,609)
Fringe Benefits	(23,843)	(29,339)	(30,072)
Equipment and Expense	(31,734)	(12,804)	(13,188)
Total Costs	(\$135,346)	(\$140,299)	(\$143,869)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Costs - Department of Public Safety</u>			
Salaries	(\$285,512)	(\$351,321)	(\$360,105)
Fringe Benefits	(85,340)	(105,010)	(107,635)
Equipment and Expense	(119,560)	(76,756)	(79,059)
Total Costs	(\$490,412)	(\$533,087)	(\$546,799)
<u>Costs - Department of Revenue</u>			
Salaries	(\$47,880)	(\$41,353)	(\$42,386)
Fringe Benefits	(14,723)	(12,716)	(13,034)
Equipment and Expense	(19,003)	(970)	(1,000)
Programming Costs	(122,400)	0	0
Total Costs	(\$204,006)	(\$55,039)	(\$56,420)
<u>Income - Department of Revenue</u>			
Registration Fees	\$300,000	\$300,000	\$300,000
<b>TOTAL ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$529,764)</u></b>	<b><u>(\$428,425)</u></b>	<b><u>(\$447,088)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	0	0	0

FISCAL IMPACT - Small Business

This proposal could impact sellers and distributors of tobacco products.

DESCRIPTION

- (1) The proposed legislation would make it illegal for a person under the age of 18 to purchase, attempt to purchase, or possess tobacco products. Persons under the age of 18 will have their tobacco products confiscated. For the first violation, the penalty is an infraction. The penalty for a second or subsequent violation may include community service (Section 407.933);
- (2) Requires vendors of tobacco products to have a retail sales tax license and be registered to

DESCRIPTION (continued)

sell such products, and allows the Department of Mental Health the authority to inspect stores for compliance with laws relating to the sale of tobacco products. Knowingly selling tobacco products to minors without registering is a class A misdemeanor (Section 407.934);

(3) Allows vendors to deny the sale of tobacco products to persons believed to be less than 18, and makes individual packages of tobacco products inaccessible to all persons under 18, beginning January 1, 2001 (Sections 407.926, 407.928);

(4) Requires vendors to post a sign stating that it is a violation of state law for tobacco products to be provided to persons under 18, and it is a violation for persons under 18 to possess or purchase tobacco products. Currently, a sign is required stating only that it is illegal to sell tobacco products to persons under 18 (Section 407.927);

(5) Bans the sale of individual packages of tobacco products unless they are either sold through vending machines or displayed at a secure and inaccessible location. The proposal requires that vending machines be equipped with a device that disables them until unlocked by a sales person. Vending machines located in areas where patrons must be over the age of 18 are excepted from this requirement (Section 407.928, 407.931);

(6) Requires purchasers of tobacco products to present prescribed identification upon request to demonstrate age. The proposal makes it a class A misdemeanor to reproduce, alter, modify, or misrepresent a driver's license or identification card, which is punishable with a fine of not more than \$1,000 and confinement of not more than one year (Section 407.929);

(7) Imposes a fine of \$250 and 5-day suspension of a store's license to sell tobacco products for the fourth or subsequent violation of the statutes banning the sale or distribution of tobacco products to persons under the age of 18. In addition, the store will be fined in the same amount as the individual wrongfully selling the tobacco products (Section 407.931); and

(8) Imposes additional penalties on the owner or operator of the outlet selling tobacco products to persons under 18. For the first offense, the Division of Liquor Control will issue a reprimand; for a second offense, the division will prohibit the sale of tobacco products for one day; for a third offense, the division will prohibit the sale of tobacco products for 2 days; and for the fourth and subsequent offense, the division will prohibit the sale of tobacco products for 3 days. The penalties will not be imposed on the owner or operator if certain circumstances involving the training of employees in the sale of tobacco to minors can be shown (Section 407.931).

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of Attorney General  
Office of State Courts Administrator  
Department of Mental Health  
Department of Public Safety  
Department of Revenue  
Office of Prosecution Services  
Office of State Public Defender  
Department of Health

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA  
Director  
February 1, 2000